

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(San Joaquin)

In re J.C. et al., Persons Coming Under
the Juvenile Court Law.

SAN JOAQUIN COUNTY HUMAN SERVICES
AGENCY,

Plaintiff and Respondent,

v.

J.C.,

Defendant and Appellant.

C064344

(Super. Ct. No.
J04816)

Appellant J.C., father of minors Joseph and James, appeals from the juvenile court's orders terminating his parental rights and freeing the minors for adoption. (Welf. & Inst. Code, §§ 366.26, 395; unspecified section references that follow are to the Welfare and Institutions Code.) He contends there is insufficient evidence the minors are adoptable. We affirm.

BACKGROUND

A section 300 petition was filed in January 2008 on behalf of four-month-old minors Joseph and James due to caretaker

absence, parental drug use, and neglect. Although the minors were initially released to their mother with services, they were removed in October 2008 due to unsuitable living conditions, domestic violence, and unauthorized contact with appellant. The minors were placed in foster care and, in December 2008, were reported to have adjusted well.

Both minors were determined to be physically and mentally healthy, but to have delays in motor and language development. They began Early Start Intervention Services and, later, Professional Evaluations and Developmental Services. The minors' developmental delays were reported to be improving with their stable environment and services.

On April 30, 2009, the minors were assessed and deemed adoptable by the San Joaquin County Human Services Agency's (HSA) adoptions supervisors. The minors had been recently placed in a private foster home, after having had several previous placements. The minors have remained in that placement.

Reunification services were terminated for both parents on May 6, 2009. In July 2009, the minors were reported to be well adjusted and thriving in their placement. In September 2009, the HSA reported that, although the minors were adoptable, it had not yet identified prospective adoptive parents.

In January 2010, the social worker reported that the foster parents with whom the minors had been placed since March 28, 2009, had been identified as prospective adoptive parents. They were receiving adoption services and the minors were treated

like family. The minors were emotionally attached to the foster adoptive parents, and the minors were well adjusted and thriving. The minors were healthy and happy, and they continued to receive services for the developmental delays.

After hearing testimony from mother and appellant at the section 366.26 hearing regarding their contact and relationships with the minors, the juvenile court terminated parental rights and ordered the minors placed for adoption.

DISCUSSION

Appellant contends the evidence was insufficient to support a finding that the minors are adoptable. We disagree.

“‘At the selection and implementation hearing held pursuant to section 366.26, a juvenile court must make one of four possible alternative permanent plans for a minor child. . . . The permanent plan preferred by the Legislature is adoption.’” (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1368, italics omitted.) “In order for the court to select and implement adoption as the permanent plan, it must find, by clear and convincing evidence, the minor will likely be adopted if parental rights are terminated.” (*In re Tabatha G.* (1996) 45 Cal.App.4th 1159, 1164; § 366.26, subd. (c)(1).)

“The issue of adoptability posed in a section 366.26 hearing focuses on the *minor*, e.g., whether the minor’s age, physical condition, and emotional state make it difficult to find a person willing to adopt the minor. [Citations.] Hence, it is not necessary that the minor already be in a potential

adoptive home or that there be a proposed adoptive parent 'waiting in the wings.'" (*In re Sarah M.* (1994) 22 Cal.App.4th 1642, 1649.) On the other hand, "the fact that a prospective adoptive parent has expressed interest in adopting the minor is evidence that the minor's age, physical condition, mental state, and other matters relating to the child are not likely to dissuade individuals from adopting the minor. In other words, a prospective adoptive parent's willingness to adopt generally indicates the minor is likely to be adopted within a reasonable time either by the prospective adoptive parent or by some other family." (*Id.* at pp. 1649-1650.)

We review the juvenile court's finding that the minors are likely to be adopted within a reasonable time under the substantial evidence standard, giving it the benefit of every reasonable inference and resolving any evidentiary conflicts in favor of affirming. (*In re I.I.* (2008) 168 Cal.App.4th 857, 869.)

Applying these principles to the present matter, the minors were assessed in April 2009 and determined to be adoptable. Both minors are physically and mentally healthy. By the time of the section 366.26 hearing, the minors had been living with the foster adoptive parents for over nine months and were adjusting well to the placement. They had made progress with their developmental delays and were continuing to improve. The family was interested in adopting the minors and receiving adoption services. No one argued at the section 366.26 hearing that the minors were not adoptable, likely because the minors were living

in a foster adoptive home with no apparent impediments to adoption.

On appeal, appellant focuses on the minors' developmental delays in asserting that the evidence does not support a finding that the minors are generally adoptable. But, as we have previously noted, the fact that a family wants to adopt the minors is evidence that they are generally adoptable. (*In re Sarah M.*, *supra*, 22 Cal.App.4th at pp. 1649-1650.) Furthermore, the minors' motor and language development had improved with services and they were continuing to receive and participate in services.

In addition to challenging the minors' general adoptability, appellant argues that the evidence does not support a finding that the minors are specifically adoptable. Here, however, the social worker did not assert that the minors were adoptable solely upon the existence of the current prospective adoptive mother. In fact, an adoption assessment had concluded, even prior to the current foster adoptive parents' commitment to adopting the minors, that both minors were adoptable. We also note that several families had come forward to express an interest in placement.

Yet, even if we were to assume there was some question as to the minors' general adoptability, the minors were in a stable adoptive placement with prospective adoptive parents who were aware of the minors' delays. Even a minor who otherwise might be considered difficult to place for adoption may be deemed likely to be adopted if a prospective adoptive family has been

identified that is willing to adopt the child. (*In re Sarah M., supra*, 22 Cal.App.4th at p. 1650.) Thus, even if the social worker *had* opined that the minors were adoptable solely due to the existence of the current foster adoptive parents, the record reveals no evidence that there were any impediments to adoption. Absent any evidentiary basis for questioning the feasibility of the minors' adoptive placement, such placement was sufficient to support a finding that the minors are adoptable.

If appellant had further doubts as to the minors' adoptability or the foster adoptive parents' commitment to adopting the minors, it was incumbent upon him to examine witnesses to explore those concerns at the section 366.26 hearing. He failed to do so, and there was sufficient evidence supporting the juvenile court's finding of adoptability.

DISPOSITION

The orders of the juvenile court are affirmed.

HULL, Acting P. J.

We concur:

ROBIE, J.

BUTZ, J.

